

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO INTRALATA TOLL)	
COMPETITION, AN APPROPRIATE)	ADMINISTRATIVE
COMPENSATION SCHEME FOR COMPLETION)	CASE NO. 323
OF INTRALATA CALLS BY INTEREXCHANGE)	PHASE I
CARRIERS, AND WATS JURISDICTIONALITY)	

O R D E R

On May 1, 1992, Cincinnati Bell Long Distance, Inc. ("CBLD") filed a motion for clarification of the Commission's decision of May 6, 1991 in this case. On May 15, 1992, AT&T Communications of the South Central States, Inc. ("AT&T") filed a response to CBLD's motion. On May 22, May 26, and June 1, 1992, MCI Telecommunications Corporation, Sprint Communications Company Limited Partnership, and AmeriCall Systems, Inc., respectively, filed responses consistent with AT&T's position.

CBLD contends that while the Commission's decision authorized "facilities-based intraLATA¹ competition," it did not address the termination of intraLATA calls through the use of switched access services. Therefore, CBLD "moves the Commission to clarify its Order as to whether interexchange carriers may terminate intraLATA calls via local exchange carrier Feature Groups B and D."²

AT&T responds that the Commission's decision is clear and needs no clarification relative to the authority granted

¹ Local Access and Transport Area.

interexchange carriers to complete intraLATA calls. Furthermore, AT&T observes that:

With few exceptions, the only way interexchange carriers complete calls on their networks is over the access facilities (i.e., access services) purchased from the local exchange carriers. Indeed, access services can be defined as the use of local exchange facilities for the origination and termination of interexchange toll traffic.³

AT&T suggests that CBLD's motion is based on the distinction between facilities-based carriers and resellers, and that the motion is actually a request for clarification on the point as to whether resellers can use switched access services to terminate intraLATA traffic. Given this restatement of the motion, AT&T notes that it "has been consistent in its position that all local exchange carrier provided monopoly services (including access services) should be made available to all customers at the same rates, under the same terms and conditions, and without resale restrictions."⁴ This notwithstanding, however, AT&T points out that the Joint Motion⁵ adopted by the Commission requires all users of switched access services to share in the recovery of non-traffic sensitive revenue requirement:

This combined non-traffic sensitive revenue level would be recovered uniquely for each local exchange carrier from all toll service providers, including the intraLATA pool, resellers, and other parties purchasing switched

² Motion for Clarification, pages 1-2.

³ Response of AT&T, pages 1-2.

⁴ Id., page 2.

⁵ Joint Motion of a Coalition of Local Exchange Companies and Interexchange Carriers. The Joint Motion was filed on March 10, 1989 and supplemented on July 2, 1990. Both versions were incorporated into the Commission's decision of May 6, 1991.

access, based on each access user's terminating access minutes in that local exchange carrier's operating area.⁶

Accordingly, AT&T argues that if the Commission issues any clarification, it "should distinguish resellers from facilities-based carriers and reiterate that to the extent resellers purchase access, they must participate in the allocation of the non-traffic sensitive revenue requirement along with other users of access services."⁷

CBLD's motion is brief and does not distinguish between facilities-based carriers and resellers, referring only to interexchange carriers in a generic sense. However, given the circumstances, CBLD's motion would be without merit absent the distinction.

The resale of wide area telecommunications service was authorized in Administrative Case No. 261.⁸ The distinction between facilities-based carriers and resellers was developed in Administrative Case No. 273.⁹ It was part of the regulatory framework governing interexchange telecommunications service adopted in that case. Facilities-based carriers were restricted

⁶ Id., page 2. Compare the Response of AT&T, page 2 and the Commission's decision of May 6, 1991, page 26 in this case.

⁷ Response of AT&T, page 3.

⁸ Administrative Case No. 261, An Inquiry Into the Resale of Intrastate Wide Area Telecommunications Service.

⁹ Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

to providing interLATA services. Resellers were allowed to resell wide area telecommunications service on a statewide basis. Essentially, however, the Commission's decision of May 6, 1991 and other related decisions in this case eliminated the distinction by allowing facilities-based intraLATA competition.

Also, in early decisions on applications for a certificate of public convenience and necessity to resell wide area telecommunications service, the Commission specifically restricted operating authority to the resale of that service. Hence, the term "pure reseller." Over time, however, resellers began to acquire facilities and use switched access services. In the former case, resellers were required to divest themselves of facilities or be reclassified as facilities-based carriers. In the latter case, the Commission came to allow the use of switched access services to originate traffic, but continued to require that it be terminated using local exchange carrier-provided wide area telecommunications service.


It is against this background that CBLD's motion will be addressed. While the Commission's decision of May 6, 1991 in this case does not specifically state that resellers can use switched access services to terminate intraLATA traffic, such authority is implied both in the decision itself and the Joint Motion. Clearly, an evolution has occurred, to the point that a meaningful distinction between facilities-based carriers and resellers no longer exists. Furthermore, no useful purpose would be served by restricting the use of switched access services by resellers. Therefore, the Commission finds that resellers, like

facilities-based carriers, can use switched access services to originate, transport, and terminate traffic, both interLATA and intraLATA, consistent with all other provisions of the Commission's decision of May 6, 1991. This includes but is not limited to liability for charges designed to recover non-traffic sensitive revenue requirement, which are applicable to terminating switched access minutes of use.

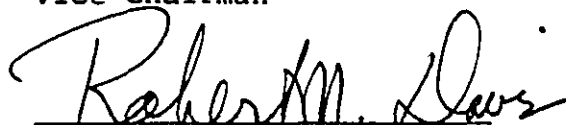
The Commission, being otherwise sufficiently advised, HEREBY ORDERS that CBLD's motion is granted as discussed herein.

Done at Frankfort, Kentucky, this 11th day of June, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director